IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

M.A.C.A.No.77 of 2003(C)

O.P.(M.V).NO.106/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM

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APPELLANT/PETITIONER:-

M.J.MATHEW @ RAJU, MUKKONIL HOUSE,
THALLAKOM P.O., ADICHIRA, KOTTAYAM DISTRICT

BY ADV. SMT.BETTY K.ALUKKA

RESPONDENTS/RESPONDENTS:-

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1. ABRAHAM GEORGE, PALACKATTU PUTHENPURAYIL HOUSE,
   S.N.MOUNT P.O., KOTTAYAM.

2. VINOD KUMAR S/O. PRABHAKARAN NAIR,
   THODIPARAMBIL HOUSE, KALATHOOR JUNCTION,
   KOTHANALLOOR, KOTTAYAM.

3. ORIENTAL INSURANCE COMPANY LTD.,
   KOTTAYAM DIVISION, REPRESENTED BY ITS
   DIVISIONAL MANAGER, DIVISIONAL OFFICE, KOTTAYAM.

R3 BY ADV. SRI.V.P.K.PANICKER

THIS MOTOR ACCIDENTS CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.Padmanabhan Nair,J.

M.A.C.A.No.77 of 2003-C

Dated, this the 21st day of March, 2007

JUDGMENT

The petitioner in O.P.(M.V.) No.106 of 1996 on the file of Motor Accidents Claims Tribunal, Kottayam is the appellant. The appellant, while travelling in a stage carriage bus bearing registration No.KL-5/B 437, sustained injuries in a road traffic accident at 6.15 P.M. on 5.12.1995. The appellant filed the Original Petition claiming an amount of Rupees One Lakh as compensation impleading the owner, driver and also the Insurer of the vehicle. The owner and driver did not appear and contest the case. Insurer alone contested. Tribunal found that the accident occurred due to the negligence of the bus driver. An amount of Rs.12,000/- was awarded as compensation. The Insurer was directed to pay that amount. Challenging the quantum of compensation, the applicant has filed this appeal.

2. Heard both sides.

3. The medical evidence shows that immediately after the incident, the appellant was taken to Karithas Hospital for

treatment. He was treated in that hospital from 5.12.1995 to 9.12.2005. Thereafter he was undergoing treatment in the Medical College Hospital for three months. After hearing both sides, I am of the view that the quantum of compensation awarded is very low. The Tribunal awarded an amount of Rs.5,000/- for pain and suffering. I am of the view that the Tribunal ought to have awarded at least Rs.7,500/- on that count. So, I am awarding an additional amount of Rs.2,500/- for pain and suffering. For loss of earning, the Tribunal awarded only an amount of Rs.1,000/-. The Tribunal ought to have awarded an amount of Rs.4,500/- on that count. An additional amount of Rs.3,500/- is, thus, awarded to the appellant for loss of earning. So also, the Tribunal had not awarded any amount for loss of amenities. I am of the view that an amount of Rs.4,000/- can be awarded on that count. I do so.

In the result, the appeal is allowed in part. An award is passed in favour of the appellant allowing an additional compensation of Rs.10,000/- (Rupees ten thousand only) in addition to Rs.12,000/- awarded by the Tribunal, which will carry

interest at the rate of 7% per annum from the date of petition till realisation. The 3rd respondent, Insurer, shall deposit that amount within two months from today.

K.Padmanabhan Nair
Judge

vku/-